

DD/S REGISTRY
FILE *Security*

8 SEP 1971

MEMORANDUM FOR: Mr. William R. Rehnquist
Chairman, Security Review Committee

SUBJECT : Safeguarding Official Information in the
Interests of the Defense of the United
States (Executive Order 10501, as
amended)

1. We have reviewed your revised draft and pursuant to the request contained in your covering memorandum of 11 August 1971, we offer the following comments.

2. In the preamble to the revised draft of Executive Order 10501, reference is made to "agents of foreign governments." We recognize that this is a legal term and is meant to include all individuals who represent foreign governments. We feel, however, that friendly foreign governments may misconstrue its meaning and assume we are referring to espionage agents and thus infer that they engage in espionage directed against the United States. Therefore we recommend that "agents of" be deleted. The phrase would then read "would necessarily reach foreign governments as well."

3. We would recommend that the title of Section 1 be changed from "Classification Categories" to "Security Classification Categories." We do this because Section 5 makes repeated references to security classification.

4. Subparagraphs (e) (2) of Section 2 and (f) (b) of Section 2, page 7, seem to contradict subparagraphs (a) of Section 2.

OGC Has Reviewed

page 5, and (c) of Section 2, page 6, in that authority to classify "SECRET" and "CONFIDENTIAL" is limited in one instance to those designated by the heads of agencies and in the other, such authority is extended to officials who have "TOP SECRET" and "SECRET" classifying authority. We would prefer the delegation for classification set forth on page 7.

5. In order to avoid misinterpretation of Section 2 (i), page 9, we recommend that the following sentence be added to the end of Section 2 (i) (3), page 10: "The authority to downgrade and declassify shall be limited to classified data originating in the agency of the declassifying and downgrading authority, except for material officially transferred as defined in Section 4 (c)."

6. The second sentence of Section 3, page 11, should read as follows: "Both unnecessary classification and over-classification should be avoided as well as the failure to properly classify those documents and material which need protection."

7. With reference to Section 3 (d), page 13, we would prefer that a transmittal letter be classified in accordance with the present Executive Order for physical security reasons. In making security checks classified documents bearing an unclassified transmittal letter might be overlooked or used as an excuse for not securing classified documents. In addition, when documents are delivered to a central mailroom within an agency, a classified transmittal letter would readily indicate the need for secure handling and delivery. Otherwise mail clerks would be required either to read the transmittal letter or look at each attachment thereto.

8. We have no particular preference between Alternative I and II in Section 4 (a), pages 15 through 18.

9. The adverb "highly" should be deleted from 4 (b) (1) h (iii), page 16, since the word "sensitive" itself establishes a need for special protection.

10. With reference to subparagraph (b) (4) of Section 4, page 22, there appears to be an error in the reference to (4) (c). If, in fact, the reference should be 4 (b) (1) g, page 20, we do not agree that material classified under the "Special Categories" provisions should be automatically declassified without prior review. We recommend that the wording be changed as follows:

"All information and material classified pursuant to subsection 4 (b) (1) g of this Order shall be reviewed for declassification after 30 years from the date of its original classification if it has not earlier been declassified."

This change becomes particularly important to us because of the provision of subparagraph (1) (2) a of Section 4, page 27. We cannot agree that our Group 1 classified information can be declassified without prior review, even after thirty years.

11. We recommend paragraph 4 (c), page 24, read as follows:

"Downgrading: If the recipient of classified material believes that it has been classified too highly, he shall refer the matter with recommendations to the downgrading and declassifying authority of the originating agency."

This recommendation is in line with our proposal set forth in paragraph 5 of this memorandum.

12. The last sentence of paragraph 4 (1) (3), page 28, should be changed to read as follows: "In making such determination the holder shall first obtain the concurrence of the originating agency, except for material officially transferred in which case the provisions of Section 4 (c) shall apply."

13. The reference in Section 5 (a), page 29, should be changed from "(a) (3) of Section 4" to "(a) of Section 4." In addition,

the reference to subparagraph "(a) (4) of Section 4" should be amended to "(b) of Section 4."

14. Subparagraph (e) of Section 5, page 30, needs clarification. We would suggest that subparagraphs (e) and (f) of the draft prepared by the DOD Working Group be used.

15. The control marking "WARNING NOTICE-SENSITIVE SOURCES AND METHODS INVOLVED" in Section 5 (j) (5), page 35, should be amended to "WARNING NOTICE-SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED." We recommend this, since the National Security Act of 1947 made the Director of Central Intelligence responsible for protecting intelligence sources and methods. Subparagraph (f) of Section 7, page 44, should be likewise amended.

16. We have no choice between Alternate I and Alternate II of Section 10 (d).



CIA Member


STAT

cc: Mr. Howard C. Brown, Jr. - AEC
Mr. Joseph J. Liebling - Defense
Mr. William D. Blair, Jr. - State
Mr. Thomas K. Latimer - NSC

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the Defense of the United States (Executive Order
10501, as amended)**

CONCURRENCES:

STATINTL


for **Lawrence R. Houston**
General Counsel

8 SEP 1971
Date

S I G N E D
John W. Coffey
Deputy Director
for Support

8 SEP 1971
Date

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